record here, *en passant*, that notwithstanding this libel of Wilkes, it fell to the lot of Mansfield, three years later, to reverse the judgment of outlawry against Wilkes, on which occasion the Chief Justice spoke of 'that *mendax infamia* from the press, which, daily, coins false facts and false motives.' . . .

"These various extracts have been reproduced in order to show the general consensus of statement that Chief Justice Wilmot's opinion in *King* v. *Almon* was an undelivered paper and published only after his death. It is awarding to him an immortality which he never dreamed of when he penned his opinion, and it is somewhat of an anachronism to see it quoted as authority in some of the American courts at the close of the last and the beginning of the new century."

It is needless to say, however, that the decision in the Virginia case of *Carter* v. *Commonwealth* (96 Va. 791), is not at all dependent on the Wilmot opinion in *Rex* v. *Almon*, since in the Virginia case the contempt consisted, not in a libelous publication reflecting upon the court, but occurred in the face of the court, in the shape of a telegram by the defendant to his counsel, alleging his serious illness and consequent inability to be present at the trial of a case pending against him, with the intent that the telegram should be shown to the court and a continuance thereby obtained, and with the result that the telegram was used by his counsel (the latter acting in good faith) for that purpose.

FURTHER RULINGS IN BANKRUPTCY—*Amendment of Schedules.*—An amendment of schedules will not be allowed a bankrupt after his assets have vested in trustee, lest he may favor certain creditors as to whom he had waived his right of exemption. *Moran* v. *King*, 111 Fed. 730.

Compensation of Referee—Expenses—Powers.—Neither under the Bankrupt Act of 1898 nor under the General Orders of the Supreme Court is a referee permitted to charge a *per diem* in any case nor for any order he may enter. He may charge for actual expenses—such as blanks used in mailing notices, clerk hire in gross, i. e., uniform in each case, and not in proportion to amount of work done.

He cannot collect funds of the estate, nor can he issue subpœnas. *In Re Pierce*, 111 Fed. 516. See also *In Re Barker*, 111 Fed. 501.

A referee may in certain cases, however, award an injunction to a foreclosure sale. *In Re Matthews*, 109 Fed. 603—*ante*, p. 511. *In Re Grossman*, 111 Fed. 507, a referee was held entitled to a reasonable allowance for his services as special master in hearing objections to discharge of bankrupt. Citing *Fellows* v. *Freudenthal*, 102 Fed. 731.

Compensation of Assignees.—In *Wilbur* v. *Watson*, 111 Fed. 493, all compensation from estate of bankrupt was denied assignees under a general assignment which was itself an act of bankruptcy, for services rendered by them before petition was filed. Per *Brown*, J: "Such an assignment was constructively fraudulent and in violation of the Bankruptcy Act, in that it provided for a different mode of administration of the effects of the insolvent debtor than that contemplated by the Act." Citing *Bryan* v. *Bernheimer*, 181 U. S. 188; *West Co.* v *Lea*, 174 U. S. 590; *In Re Gutwillig*, 90 Fed. 475. "It seems to me that the broader view is that one who has voluntarily become a party to an arrangement which is contrary to the policy of Congress in enacting a uniform bankruptcy law should rather lose his time and effort, than the door should be opened to evasions of the Bankruptcy Act." See also *In Re Epstein*, 109 Fed. 878, *ante*, p. 510.

Powers of Bankrupt Court—Assessment Upon Unpaid Stock Subscriptions.—An important ruling is that *In Re Miller Electrical Maintenance Co.*, 111 Fed. 515, in

which is construed section 2 of the Act of 1898, vesting the District court with "such jurisdiction at law and in equity as will enable (it) to exercise original jurisdiction . . . to . . . cause the estates of bankrupts to be collected," etc. The company having been adjudicated a bankrupt, *Held*, that the bankrupt court has power, in a proper case, to order an assessessment on the stockholders for unpaid subscriptions. Citing *In Re Crystal Spring Bottling Co.*, 96 Fed. 945.

Right of Trustees to Property Bought by Bankrupt Conditionally.—In Re Hinsdale, 111 Fed. 502, an important question is briefly disposed of by District Judge Wheeler, of Vermont. Where a State statute provides that no lien reserved on personal property sold conditionally and which passes into the hands of the conditional purchaser, shall be valid unless recorded, it was *Held* that the rights of a trustee in bankruptcy are not enlarged, and as the title to such goods did not pass from vendors, they may retake the same.

Discharge—Effect of When Previous Petition Denied.—A discharge under a second petition, when first was refused for fraudulent concealment of assets, is no bar to a debt scheduled under the first commission, and not proved under the second. But a bankrupt may file second petition and get discharge thereunder for what it is worth. In this case, however, a general discharge was granted, its effect being left to be determined by subsequent proceedings. *In Re Claff*, 111 Fed. 506.

Death of Bankrupt—Rights of Widow and Heirs.—Section 8 of Act of 1898 provides that "the death or insanity of bankrupt shall not abate the proceedings," with a proviso saving to the widow and children all rights of dower and allowance fixed by State laws. *Held*, that where the trustee had disposed of personal estate before the death of the bankrupt, and proceeds were insufficient to pay debts, there was no allowance to widow therefrom "fixed by the laws of the State."

But though title to bankrupt's real estate became vested in trustee by the operation of the Bankrupt Act before the death of the bankrupt, *Held*, that the bankrupt remained seized of same *for purposes of inheritance*, and that widow was dowable. *In Re Slack*, 111 Fed. 523.

Permitting Preferences.—An extremely interesting ruling is made by the United States Supreme Court in *Wilson Brothers* v. *Nelson*, 22 Sup. Ct. 74, namely, that the entry of a judgment, and the issue and levy of an execution thereunder, by virtue of an irrevocable power of attorney made years before in connection with a "judgment note," is an unlawful preference "suffered or permitted," though the judgment was entered without the defendant's knowledge. The failure of the defendant to file a voluntary petition in bankruptcy five days before a sale of the property under the execution, is made by the court the gravamen of the defendant's participation in the resulting preference. Four members of the court dissent.